



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,742	07/16/2003	Joseph L. Sullivan	1074-021 (PB10030.00)	8969
53049	7590	12/19/2008		
Gregory T. Kavounas MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE M.S. LC340 MINNEAPOLIS, MN 55432-5604			EXAMINER REIDEL, JESSICA L	
			ART UNIT	PAPER NUMBER
			3766	
			MAIL DATE	DELIVERY MODE
			12/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/620,742

Applicant(s)

SULLIVAN ET AL.

Examiner

JESSICA REIDEL

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4.7.42.83 and 84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4.7.42.83 and 84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Acknowledgement is made of Applicant's Amendment, which was received by the Office on October 10, 2008. Claims 1-3, 5, 6, 8-41 and 43-82 were previously cancelled. Claims 83 and 84 are new and have been added. Claims 4, 7, 42, 83 and 84 are currently pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. *Claims 4, 7, 42, 83 and 84 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.* Claims 4 and 42 both recite the limitation "the displayed human body" in the third and fourth lines, respectively. There is insufficient antecedent basis for this limitation in the claims. In particular, the lack of antecedent basis stems from the fact that Claims 4 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting an essential step, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step for each of Claims 4 and 42 is "selecting a part of the diagram representing at least a portion of a human body". It is to the Examiner's best understanding that a user of Applicant's invention (an interactive first aid information system) must select a part or portion of the displayed diagram representing at least a portion of a human body through use of an input device of the system before a microprocessor of the system can receive such a selection (see, for example, page 8, paragraph 48 and pages 15-18 of Applicant's originally filed disclosure). Claims 7 and 83 depend from Claim 4 and the deficiencies of Claim

4 are imputed to all dependant claims. Claim 84 depends from Claim 42 and the deficiencies of Claim 42 are imputed to all dependant claims.

Claim Rejections - 35 USC § 101

4. In view of the response filed October 10, 2008, the 35 U.S.C. 101 rejection(s) applied in the Non-Final Rejection of June 11, 2008 have been withdrawn.

Allowable Subject Matter

5. Claims 4, 7, 42, 83 and 84 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action.

Response to Arguments

6. ***Applicant's arguments filed October 10, 2008 have been fully considered but they are not persuasive.*** Applicant argues that in view of the amendments/changes made to the claims, the claims particularly point out and distinctly claim the subject matter which Applicant regards as the invention (see pages 4-5 of the Remarks). The Examiner respectfully disagrees. Applicant has not provided any evidence and/or sufficient reasoning showing or proving how a system can receive "a selection" if such selection is not or has not been made or established. In an attempt to clarify, the Examiner has expanded the rationale presented at page 2 of the Non-Final Rejection of June 11, 2008 above in this Office Action. In addition, particular attention is hereby made to page 15, paragraph 80 through page 17, paragraph 87 of Applicant's originally filed disclosure where it is explicitly described that a user must select a part or portion of the displayed diagram representing at least a portion of a human body through use of an input device of the system before a microprocessor of the system can receive such a selection. Again, it is

extraordinarily unclear how "a selection" may be received if such selection is not or has not been made or established.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA REIDEL whose telephone number is (571)272-2129. The examiner can normally be reached on Monday - Friday, 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on (571)272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jessica L. Reidel/
Patent Examiner, Art Unit 3766
December XX, 2008

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit
3766